

Kerri Dillon

From: no-reply@fcc.gov
Sent: Tuesday, January 03, 2017 12:33 PM
To: kdillon@e-ratecentral.com
Subject: FCC ECFS Filing Confirmation

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Confirmation Number: 20170103211179087

Proceeding(s): 02-6 : In the Matter of Schools and Libraries Universal Service Support Mechanism

Filer(s): Kerri Dillon

Author(s):

Law firm(s):

Type of Filing: APPEAL

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Documents(s) Attached: Aurora Public Library Appeal (472).pdf, Aurora Public Library- BEAR NL.pdf

Address: 400 Post Ave Ste 410, Westbury, NY 11590

December 30, 2016

**Federal Communications Commission
445 12th Street SW
Washington, DC 20554**

In the Matter of

Request for Review of a Decision of the)	Administrator Correspondence Dated
Universal Service Administration Corp. for)	November 4, 2016
Aurora Public Library)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

Request For Review

In accordance with sections 54.719 through 54.721 of the Commission's rules, Aurora Public Library through its consultant, requests Federal Communications Commission (Commission) review of a decision of the Schools and Libraries Division of the Universal Service Administrative Company (Administrator). Based on the facts presented, Aurora Public Library asks that the Administrator's decision be overturned.

Form 471 Application Number: 1049458

Funding Request Numbers: 2866024, 2866536

Billed Entity Number: 135665

FCC Registration Number: 0023958291

Background

Aurora Public Library filed their Category 2 E-rate application for eligible equipment and services in April of 2015. They ordered the equipment and services listed on the application in April as well, taking advantage of the new rule allowing entities to order and purchase equipment before the new funding year usually begins on July 1, laid out by the E-rate Modernization Order. The equipment and services were delivered by the service provider, Information Systems Group (ISG) and the entity paid the invoices in full. Later, the application was committed for the equipment and services purchased. Unfortunately, upon submitting the Form 472 for reimbursement discounts of these invoices, we noticed that Information Systems Group (ISG) was out of business and hadn't filed a Service Provider Annual Certification Form (SPAC) required to approve and move a Form 472 forward for reimbursement to the applicant. Consequently, Aurora Public Library received a BEAR Notification Letter paying out "\$0.00" on the two funding requests in question citing the following as the explanation: "Service Provider No Certified; Ship Date Outside of Funding Year; Ship Date Before 486 Service-Start Date." (*Exhibit A*)

Discussion

In the past entities facing the same situation as Aurora Public Library were able to utilize the Good Samaritan process. The Good Samaritan process as described by USAC is:

"In situations where the original service provider (as indicated on the FCC Form 486) has gone out of business or has filed for bankruptcy protection before processing BEAR reimbursements for applicants,

USAC can assist applicants in obtaining such BEAR reimbursements through a "Good Samaritan" service provider. The role of the Good Samaritan service provider is simply to receive the BEAR reimbursement from USAC and pass the reimbursement through to the applicant within twenty days of receiving the reimbursement from USAC. The role of the applicant is (1) to confirm that the service was provided, that the service was paid for in full, and that the original service provider is now out of business or in bankruptcy and (2) to designate a Good Samaritan service provider. USAC can assist applicants in locating a Good Samaritan service provider, if necessary."¹

With the advent of direct BEAR payments, applicants no longer require a Good Samaritan service provider to receive payment for the purpose of passing payment to the applicant. This process designed to facilitate payment of eligible services to applicants who have complied with program rules has not yet accounted for this scenario where the service provider failed to file their SPAC. This service provider failure unfairly punishes applicants who have otherwise complied with all other program rules.

In regards to the denial reason concerning dates outside of funding year windows and Form 486 dates, this is a system error. The Modernization Order states that applicants were permitted to purchase Category 2 services and equipment up to three months prior to the start of the "funding year". While Aurora Public Library received the Category 2 equipment within that three month timeframe, they correctly waited to not invoice USAC until after the "funding year" began on July 1, 2015. The system correctly allows for the date entry of a service delivery date prior to July 1st of the "fund year" but the system has a limitation that contradicts the time allowance given by the Modernization Order by not allowing applicants to select a service start date prior to July 1st of the "fund year". How can an applicant be held accountable for an antiquated system that does not support modernized rules?

Conclusion

To conclude, we ask that you overturn the Administrator's decision allowing Aurora Public Library the opportunity to collect the discounts they rightfully deserve to support the eligible services they had applied for and were approved for through the E-rate application process. The explanations provided for denial were of no fault to the library system and they should not be penalized for it. We respectfully submit this appeal and emphasize that Aurora Public Library has not committed any waste, fraud, or abuse with the associated funding requests.

Sincerely,



Kerri L. Dillon

E-Rate Coordinator, E-Rate Central

¹ E-rate Good Samaritan Process as outlined on USAC's website- <http://www.usac.org/sl/applicants/before-youre-done/good-samaritan.aspx>

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1 **Filing** 2 **Review** 3 **Confirmation**

Proceeding:	02-6
Confirmation #:	2018072505245783
Submitted:	Jul 25, 2018 11:49:53 AM
Status:	RECEIVED
Name(s) of Filer(s)	Kerri Dillon
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Attorney/Author Name(s)	Kerri Dillon
Primary Contact Email	kdillon@e-ratecentral.com
Type of Filing	WAIVER
File Number	
Report Number	
Bureau ID Number	
Address of	Filer
Address	400 Post Ave Ste 410, Westbury, NY, 11590
Email Confirmation	Yes

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Contact Us (<https://www.fcc.gov/contact-us>)

July 25, 2018

**Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554**

**Re: CC Docket No. 02-6: Aurora Public Library Waiver Request for FY 2016 Service Provider
Annual Certification Requirement**

**Billed Entity Number: 135665
Form 471 Application Number: 161018485
Funding Request Number: 1699033810
Funding Year: 2016**

Dear Ms. Dortch,

In accordance with sections 54.719 through 54.721 of the Commission's rules, Aurora Public Library through its consultant, requests Federal Communications Commission (Commission) review of a decision of the Schools and Libraries Division of the Universal Service Administrative Company (Administrator). Based on the facts presented, Aurora Public Library asks that the Administrator's decision be overturned.

Background

During the procurement of Funding Year 2015 E-rate eligible services, Aurora Public Library decided to purchase a multi-year SKU to support E-rate eligible equipment. The services were to be "delivered" from Funding Year 2015 through Funding Year 2017. Although the library was required to purchase the three-year service upfront, the applicant only applied for the cost of the first year of service on the FY2015 application per FCC rules and USAC guidance. In FY2016, they applied for the second year of service and applied for the last year of service in FY2017. All funding requests pertaining to these services were committed in full. Unfortunately, upon submission of the Form 472 for reimbursement discounts, we discovered that the vendor who originally sold these services to the applicant, Information Systems Group (ISG), went out of business. As such, a Service Provider Annual Certification Form (SPAC) has not been filed which is required to process a Form 472 properly. Consequently, Aurora Public Library received a BEAR Notification Letter paying out "\$0.00" with a reimbursement request decision explanation of "service provider not certified". (*Exhibit A*) The applicant has not been able to receive their reimbursement discounts for both FY2015 and FY2016 of this date. (A request to reconsider the disbursement of "\$0.00" for the same reason was submitted to the FCC on January 3, 2017 for Aurora Public Library's FY2015 funding requests and is still pending. *Exhibit B*)

Discussion

In the past, entities challenged by the same situation as Aurora Public Library were able to utilize the "Good Samaritan" process. The Good Samaritan process as explained by USAC says that:

“In situations where the original service provider (as indicated on the FCC Form 486) has gone out of business or has filed for bankruptcy protection before processing BEAR reimbursements for applicants, USAC can assist applicants in obtaining such BEAR reimbursements through a "Good Samaritan" service provider. The role of the Good Samaritan service provider is simply to receive the BEAR reimbursement from USAC and pass the reimbursement through to the applicant within twenty days of receiving the reimbursement from USAC. The role of the applicant is (1) to confirm that the service was provided, that the service was paid for in full, and that the original service provider is now out of business or in bankruptcy and (2) to designate a Good Samaritan service provider. USAC can assist applicants in locating a Good Samaritan service provider, if necessary.”¹

With the advent of direct BEAR payments, applicants no longer require a Good Samaritan service provider to receive payment for the purpose of passing payment to the applicant. This process, designed to facilitate payment of eligible services to applicants who have complied with program rules, has not yet accounted for the scenario in which the service provider who has gone out of business and failed to file their SPAC. This service provider failure unfairly punishes applicants who have otherwise complied with all other program rules.

Conclusion

Aurora Public Library has been denied reimbursements due to circumstances beyond their control. We ask that you consider either an alternative solution to the original Good Samaritan process and/or a waiver of the requirement that a SPAC certification is required in the instance where vendors are no longer in business. We'd also like to seek an automatic invoice deadline extension for the associated FRNs. We respectfully submit this request and ask that you act to ensure all applicants can fully realize their committed E-rate monies.

Sincerely,



Kerri L. Dillon
E-Rate Coordinator, E-Rate Central

¹ E-rate Good Samaritan Process as outlined on USAC's website- <http://www.usac.org/sl/applicants/before-youre-done/good-samaritan.aspx>